FOR MYSORE STATE

Home (1954) Department.

R SERIES.

G.O No. 2590

Dated 30.8.54.

Passed

MJ

Seb

[Despatch Abstract.]

Cul. Jus.- Appeal against acquittal-

S. Kanara dist.- S.C.No. 16/54/ S.J., S. Kanara

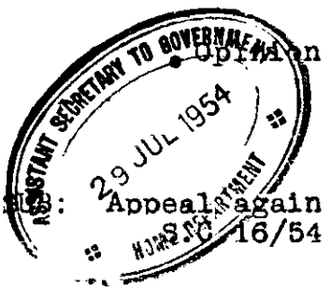
Applt.- Sanctioned.

Sri V.T.Rangaswamy Ayyangar, B.A.B.L.,
Public Prosecutor,
Madras.

The Secretary to Government,
Home Department,
Madras.

Opinion No. 115 of 1954 dated 27--7--1954.

Sir,



Sub: Appeal against acquittal under Section 302 I.P.C. - S.C. 16/54 - South Kanara - Forwarding Opinion

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102108/2/7

OPINION.

A copy of the judgment in S.C. 16 of 1954 on the file of the Sessions Judge, South Kanara was forwarded to me by the High Court for my perusal and I find that the accused in the case had been found guilty for an offence punishable under Section 304 I.P.C. on account of the application of exception (1) to Section 300 I.P.C. viz., that the accused acted under grave and sudden provocation. I am afraid no gravity for the provocation nor was there any situation for inflicting injuries of the very serious kind. The conviction ought to have been given by the learned Sessions Judge for an offence punishable under Section 302 I.P.C. whatever the sentence may be, and under those circumstances an appeal against acquittal of the accused for the offence punishable under Section 302 I.P.C. could be filed.

The judgment may be called for from the District Magistrate, South Kanara.

V.T. Rangaswamy

Public Prosecutor.

27.7.54

27/7

C.R. 102108/54.

Immediate

Issued
30/7

p.c.f.

Despatched
30/7

To
The A.D.M.(I), S. Kanara.

Home (Cts I) Dept.

Memo No. 102108/CSI/54-1 Dated 30.7.54

Crl: Jus.- Appeal against acquittal.
S. Kanara dist.- S.C. 16 of 54 on the file of the S.J., S. Kanara - Copy of the judgt.- Called for.

Ref: From the P.P., Madras, Opn. No. 115 of 1954 dt 27.7.54.

The A.D.M.(I) of S. Kanara is requested to obtain and forward two certified copies of the judgt in S.C. 16 of 54 on the file of the S.J., S. Kanara immediately, and also report the OS under which purports to file an appeal against the acquittal in the Case were not sent to Govt

Sd/-
30.7.54.

30/7/54

30/7

SPECIAL.
Ref.C.No.C5-4888-54.

S.K.Addl.Dt.Magistrate (I)'s Office,
Mangalore, dated 2-8-54.

From

Sri V. Seetharama Servai, B.A.,
Addl.Dt.Magistrate (I) of S.Kanara.

To

The Secretary to Government,
Home Department, Fort St.George,
M A D R A S-9.

Sir,

Sub: CRIMINAL JUSTICE - Appeal against acquittal - South Kanara District - S.C.No.16/54 on the file of the Sessions Judge South Kanara - Copy of the judgement - Further particulars solicited.

104789 CL 1/54

Ref: Government Memo No.102108 Cts I/54-1 dated 30-7-54.

S.C.No.16/54 on the file of the Sessions Judge South Kanara is a case in which one Keti alias Mallu Poojary was committed to the Sessions for murder under Sec.302 I.P.C. and in which the Sessions Judge has convicted him under Sec.304 I.P.C. and sentenced him to undergo R.I. for a period of seven years. Evidently the S.C. number quoted in the Government Memo is not correct. I request that the correct number of the case with the name of the accused and the Station F.I.number (if available) may be furnished to me to submit my report.

Yours faithfully,

ala/2-8

for Addl.Dt.Magistrate (I).

2/8

Immediate

Home (Cts I) Dept.

102108/57. Ex. Memo. no. 102108/Cts I/54-2 dated 6.8.54

Sub: Crl. gn. - Appeal against acquittal - S. Kanara dist. - S.C. no. 16 of 54. on the file of the S.J., & S. Kanara - Copy of the jdgt.

p. 5 C/f. Ref: From the A.D.M. (I), S. Kanara, Ref. C. no. C5-4888-54 dt. 2.8.54.

The A.D.M. (I), S. Kanara is informed w.r.t. the letter cited that the

p. 3 C/f. S.C. no quoted in the govt. memo. no. 102108 Cts I/54-1 dt. 30.7.54 is correct / the govt. in the considering the gn. of preferring an appeal against the acquittal of the accused u/s. 302 I.P.C. He is requested to send two certified copies of the jdgt in S.C. no. 16/54 on the

file of the S.T., S. Kanara immediately, two further remarks are called for from him as required in the Govt memo ~~dated 10.2.58 Ch.I/ST.10/58-2 M~~

Sub 4.8.58. by letter with his brief why the prayer for appeal against acquittal of the accused on the specific charge of murder should not be granted.

4/8/58

5/8

To

The A.D.M (J.),

S. Kanara.

Dpd. 6/8

BY REGISTERED POST.
IMMEDIATE.
Ref.C.No.C5.4838/54.

Office of the Addl.Dt.Magistrate (I)
South Kanara, Mangalore, dated 11.8.54

From

Sri V.Seetharama Serval, B.A.,
Addl.Dt.Magistrate (I)South Kanara.

The Secretary to Government,
Home Department, Fort St.George,
Madras-9.

CRIMINAL JUSTICE --Appeal against acquittal - South Kanara District -S.C.No. 16/54 on the file of the Sessions Judge South Kanara - Copy of the judgment submitted.

109626
3-/16/4

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Ref:-Government Memo.No.102108/Cts/I/54-2 dated 6.8.54.

Copy of S.C.No.16/54 on the file of the Sessions Judge South Kanara in duplicate duly certified is enclosed.

Yours faithfully,

For Addl.Dt.Magistrate (I).
South Kanara.

13/8

Encl: 2 copies

HOME DEPARTMENT.

Courts I

[C. No./02-108/54]

G.O. Rt. No. 2590 Dated 30 8 54

S. Kamara dist.

CRIMINAL JUSTICE—Appeal against acquittal in S. C. No. 16 of 1954 on the file of the S. J., S. Kamara, Application—Sanctioned.

~~*Read* :—(1) From the D.M./A.D.M. (I)./Commissioner office, Madras.~~

~~No. dated~~

(2) From the P.P./~~S.P.~~ Madras, Opn. No. 115 of 1954, dated 27. 7. 1954.

ORDER.

Under Section 417 of the Code of Criminal Procedure, 1898, the Public/~~State~~ Prosecutor, Madras, is requested to present an appeal to the High Court against the acquittal by the S. J., S. Kamara, ~~etc.~~ of the accused in S. C. No. 16 of 1954 on his file.

in respect of the charge of murder under Sec. 302 I.P.C

To the P.P./~~S.P.~~ Madras. (with encl: copies of judgt. below Dt. (I))

~~Copy to the D.M./~~ A.D.M. (I)- S. Kamara, with a cpy of the pp's opn (P. 1 cf).

~~Commissioner of Police, Madras.~~

NOTE.—The draft order above follows the opinion of the Public/~~State~~ Prosecutor, Madras, at p. 1 cf.

Date of judgment 6. 7. 54.

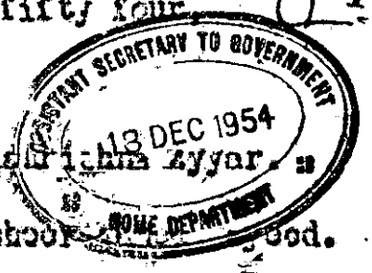
Three months time expires on 5. 10. 54.

Six months time expires on 5. 1. 55

In the High Court of Judicature at Madras

Monday, the sixth day of December,
one thousand nine hundred and fifty four.

(1) 164172
Roll



Present:-

The Honourable Mr. Justice Balakrishna Ayyar.
and
The Honourable Mr. Justice Rajagopala Sastri.

Criminal Appeals Nos. 477 and 573 of 1954.

C.A.No. 477 of 1954.

Moti alias Mallu Mujary ... Appellant.(Accused.)

Appeal against the order of the Court of Session of the South Kanara ~~District~~ Division in Case No. 16 of the Calendar for 1954.

C.A.No. 573 of 1954.

The Public Prosecutor ... Appellant.

Moti alias Mallu Mujary ... Respondent.(Accused.)

Appeal under Sec. 417 of the Code of Criminal Procedure, 1898 against the acquittal, of the aforesaid Respondent(Accused) in respect of the charge under Section 302 I.P.C. by the Sessions Judge of the South Kanara ~~District~~ Division in C.C.No. 16 of 1954.

These appeals coming on for hearing upon perusing the petitions of Appeals the record of the evidence and proceedings before the said Court of Session, and upon hearing the arguments of Mr.P. Somayya, Advocate for the Accused engaged under rule 228 of the Criminal ~~Examining~~ Rules of Practice and orders, 1951 and of the Public Prosecutor on behalf of the State, the court delivered the following:-

JUDGMENT.

(Judgment of Court by BALAKRISHNA AYYAR.J.)

On the 25th March, 1954, one Ramanna Mai was killed in a place called Kolliahajir Koole in Katukemse village. The learned Sessions Judge, South Kanara, has convicted the accused under S.304

I.P.C. in respect of the killing of this Ramanna Rai and sentenced him to undergo Rigorous Imprisonment for 7 years. C.A.477 of 1954 is an appeal by the convicted person. The State has also filed an appeal against the acquittal of the accused in respect of the charge under Section 302 I.P.C. That appeal is Cr.Ap.No. 578 of 1954.

The case for the prosecution was this: The accused is a young man about 22 years old. P.W.1 is a boy a few years younger. On 23-3-1954 a Tuesday, the accused and P.W.1 went round collecting cashewnuts from trees not belonging to them. About 10 A.M., they plucked a few nuts from trees belonging to the deceased, Ramanna Rai. Ramanna Rai went up to them and questioned them about what they had done. The accused then explained that he had plucked only four cashewnuts from Ramanna Rai's trees and that he would not pluck any more. The deceased then asked the accused to return the nuts. The accused pleaded that he had plucked only four nuts from the trees of Ramanna Rai and begged the deceased to allow him to retain them. But the deceased refused to do so and snatched the entire nuts which the accused had with him. In addition, he also confiscated a folding knife which the accused had with him. When these events happened, witnesses P.Ws. 3 and 5 were present. While leaving the spot, the accused again asked the deceased for the return of his knife and Ex. Ramanna Rai again refused. When they were going away from the spot, the accused told P.W.1, "Either I will drink his (Ramanna Rai's) blood, or he should drink my blood." No comment is necessary to elucidate the meaning of these words.

In the morning of 25-3-1954, P.W.1 and the accused went to some Government hills in order to collect cashewnuts. They plucked a certain quantity and presently sat under a banyan tree. The accused took out the knife that he had and commenced to pare the

nails of his toes. At that time A...2 went past. When he saw the accused and P. .1, A...2 had no difficulty in surmising on what enterprise they were bent. So, he told them not to pluck any nuts from his trees. After having thus warned them he walked a few paces to the west. At that time the deceased came up with a mura of rice packed in straw. The load was on his head.P...2 asked the deceased what the load was which he was carrying and Ramanna explained that it was some rice which he had obtained in a place he mentioned. When the deceased continued his journey, the accused ~~x~~ went up to him from behind-he had then his knife still open in his hand-and asked the deceased to return the knife which he had taken away from him on the ~~preceding~~ preceding Tuesday. The deceased then asked the accused, -he was clearly disdainful about the request- "Do you want the knife?" The accused replied, "yes". Ramanna Rai then turned round with one hand supporting his load. At that moment the accused stabbed Ramanna Rai on the left side of the chest with the knife which he had in his hand. When the deceased was thus stabbed, the load of rice fell down from his head. The accused pulled out the knife from the wound and ran in the southerly direction. Ramanna, applied one hand to the wound and went after the deceased and cut him with a weapon which he must have had about his waist . When they had run some 75 yards, both of them fell down. The accused picked himself up and ran away from the spot. Ramanna Rai did not move.

On seeing this P.W.1 fled from the spot. A...2 however, hurried to the house of P.W.3, the father-in-law of the deceased, and told him what had happened. P. .3 and his son, P. .6 ran to where Ramanna Rai lay. P.W.3 was the first to reach the place. He stated that when he lifted up the deceased and asked him, "what?

Ramanna" he replied that Koti Poojeri had stabbed him. These were the last words he uttered. Immediately afterds, he expired.

...e went to the house of P...7, the village patel. It so chanced that the patel had gone out to collect land revenue and came back only at about 8.30 A.M. However, as soon as he came, he recorded the statement, Ex. P-6, from P...6 and sent his reports to the magistrate and the police. After that, the patel went to the scene of offence and arranged for bandobust over the body of the deceased.

About 7 P.M., the accused went to the patel at his house and gave him a statement, Ex. P-7. In that he stated that when he saw the deceased coming along with a mura of rice, he demanded the return of the knife which had been taken away from him two days previously. He has quote Ex. P-7:

> "....by then Ramanna Nai threw down the mura of rice which was on his head and removed a balamthi(knife) from his waist. On seeing this, as I was afraid that he might kill me, forcibly stabbed with the knife which was in my hand on the chest of the said Ramanna Nai and ran away. He pursued me and came running to the western side and cut on my head and back with the balamthi Ramanna Nai slipped and fell down. I escaped and ran away,....."

At the time he made the statement, the accused handed over to the patel the knife M.O.3.

The police station appear to be some 2½ miles away from the scene of offence and it, therefore, naturally took some time for the patel's report to reach the station and for the police to reach the spot. P...10, the Sub-Inspector, held the usual inquest and

and thereafter despatched the body for post-mortem examination. This was conducted by P...4. There were only two injuries on the deceased. One was a scratch of no consequence. The other was a stab wound 5' long and 3" xxx wide on the front of the left side of the chest. The weapon had cut through the protecting bone and entered the heard. The injury was necessarily fatal and the deceased could not have survived more than 15 minutes after he received the injury. It was possible for him to have run some 25 yards after he received that injury.

The accused who had been detained by the patel and made over to the police was also sent for medical examination. P...4 examined him on 27--6--1954. He had four injuries on his person. No. 1 was an avrasion on the right knee cap and it is of no consequence. The other three were incised wounds. No-1 was on the right mastoid region. The second was on the right side of the root of the neck and the third was on the back. All these injuries could have been caused by a single sweep with a cutting weapon.

When he was questioned by the Committing Magistrate, the accused denied having stated that he would drink Ramanna's blood. He also denied having stabbed the deceased. He admitted having gone to the Patel's house at 3 o'clock but that what had actually happened was this; "On the day of occurrence, when I was on the hill, the deceased met me and (said) 'why have you come? Did I not tell you two days back not to come here?" and cut me with balakathi. Then I ran away from there. The deceased pursued me. I went to the Patel." In the Sessions Court, the accused made some material variations in the statement he had given in the Committing Court. What he then said was:

"At that time Ramanna Rai pursued me and cut on my head

"ran back. Still I ran. Ramanna Rai chased me still. When I turned back and saw, he was just close to me. Thinking that he would not spare me further, I waved the knife which was with me, backwards. From there I went straight to the patel's house....."

Questioned about the statement which he had made to the patel, the accused explained that it was not read over to him and that his thumb-impression was taken only the following day. He did not hand over the knife, M.O.2, to the patel.

No witness was examined for the defence.

The house of P.W.3 is about a mile away from the scene of offence. He is a man about 60 years old. For P.W.2 to go to the house of P.W.3 and give him information about what had happened and for P.W.3 to reach the scene of offence must have taken more than a quarter of an hour. The injury which had been inflicted on the deceased had entered his heart. P.W.4 stated that 15 minutes more or less was the maximum time that the deceased would have survived. Taking all this together, it is possible to doubt the truth of the statement of P.W.3 that the deceased told him that it was the accused that had stabbed him. On that ground we shall ignore this statement of P.W.3. That, however, leaves the evidence of P.Ws. 1 and 2.

Both these witnesses have stated in very clear terms that it was the accused who inflicted on the deceased the injury to which he succumbed a few minutes later. Neither of them has been shown to bear any grudge whatsoever to the accused. On the contrary, P.W.1 was his friend and associate, accompanying him when he went to collect cashewnuts. We do not, therefore, think that either of these witnesses would have tried to make the case against the

accused blacker than it actually is.

The statement of the accused at his trial that he waved his knife and that the deceased thus somehow injured is one which no-body can possibly believe. The statement which he gave to the Committing Magistrate ~~and the one he gave to the Committing Magistrate~~ and the one he gave to the patel, have two things in common. In both he admitted having cut the deceased; but he put forward the plea that he acted in self-defence. In support of this plea of his, there is nothing at all in the evidence of either P.W.1 or P.W.2. If the deceased had drawn out his balakathi before the accused stabbed him, P.Ws. 1 and 2, who were quite close to the spot, would have seen it, and we do not believe that they would have tried to hide that fact. This story in Ex. P-7, it must be remembered, was made not immediately afterwards but only about 7 or 8 hours later. The probability is that the accused took counsel with some one else and put forward this story as the only way of saving himself. It is moreover, entirely inconsistent with the intention which he expressed to P.W.1 on 23-3-1954 when he told him, "Either I will drink Thanna's blood, or he should drink my blood." We considered that the evidence of P.Ws. 1 and 2 is true and can be confidently acted on.

The learned Sessions Judge thought that the accused must have acted under grave and sudden provocation and that consequently he was entitled to the benefit of Exception (1) to section 300 I.P.C. The reasoning of the learned Sessions Judge on this part of this case is set out in paragraph 25 of his judgment. He observes that the evidence of P.Ws. 1 and 2 is clear that as soon as the accused asked the deceased for the return of his knife, the deceased

angrily said, "do you want the matter?" now even assuming that accused spoke those words angrily we do not see how it can amount to grave and sudden provocation and how it could deprive any one of the power of self control. The statement in paragraph 20, viz. that, therefore, appear that there was more than a quarrel," is a surmise for which there is insufficient warrant. So far as P.W.6 is concerned, it must be noticed that it was given by P.W.6 who was not a witness of what took place. The observation of the learned Judge, "It is, therefore, probable that the tone of the words of the deceased whose evil and saucy sudden provocation to the accused, who had already aggrieved against the deceased, as a result of the deceased snatching away the knife of the accused," is, we think, difficult to follow. The further statement "the fact that the deceased pursued the accused and the circumstance that the accused got a cut injury on his hand, which, in the opinion of P.W.4, was a grievous one, show that the provocation caused by the words of the deceased would have been grave and a considerable one." is whoever incomprehensible. Lower down in the same paragraph, the learned Judge says," then also the act cannot but be with intent to cause the death of the deceased, because he had already determined to take the deceased...." Now, when a person goes out determined to stab another, it is difficult to see how anyone can say that he acted under sudden provocation. The reasoning in paragraph 21 is self-destructive. There is absolutely nothing in the evidence on the basis of which it can reasonably be said that the accused acted under grave and sudden provocation. In our view, the learned Sessions was wrong in having acquitted the accused in respect of the charge under section 302 I.P.C.

We, therefore, allow C.A.378 of 1964, and convict the accused

under Sec. 302 I.P.C. In the circumstances in which this case comes up before us, we consider that the lesser of the two penalties prescribed by the law will be sufficient, and sentence the accused to transportation for life. C.A.No. 477 of 1954 is dismissed.

Before leaving this case we desire to make one observation. The object of examining an accused under Section 342 Crl. P.C. is to enable him to explain the circumstances appearing in the evidence against him. The proper way of doing that is to pick out the material circumstances appearing in the evidence of the witnesses and putting them to the accused. Then alone will he be able to give proper answers. The questions must be brief/and clear to the point Actually, in the present case, some of the questions put by the learned Judge to the accused occupy a whole printed page. Such questions merely confuse the accused and defeat the purpose for which Section 342 Crl. P.C. is enacted."

Sd. V.A.Kandaswami

Deputy Registrar, Appellate Side.,

/True copy/ S. Jagadeesan 16/12/54

Sub Assistant Registrar, App. Side.

To

1. The Sessions Judge of South Kanara Division (in duplicate for communication to the prisoner.)With records.
2. The District Magistrate(Judl.) South Kanara.
3. The Inspector General of Police, Madras.
4. The Public Prosecutor, Madras(2 copies.)
5. The Superintendent, Central Jail, Cannanore with reference to his letter No. B---/54 dated 21--7--1954 Re: Convict No. 11562.

TVT /

Dated 6--12--1954.

C.A.Nos.477 & 578-3-1954.

Public Prosecutor's Office,
Madras, d/17-12-1954.

Forwarded to the Secretary to Government, Home Department, Madras, with reference to G.O.Rt.No.2590, Home, dated 30-8-1954.

V.T. Rangasayee

Public Prosecutor.

17.12.54

To

The Secretary to Government,
Home Department, Madras.

Judgment.

Criminal Appeal Nos.477 and 578 of 1954.

Enhancing the sentence of R.I. for 7 years passed upon the accused to transportation for life in the South Kanara, Division S.C.No.16 of 1954 and dismissing the appeal of the accused.

C.No. 164172.

Home (Cts I) Dept.

Memo No. 164178 CTS I/54-1 Dated 28.1.55

Appeal against acquittal - C.A. No's. 477 and 578/54, High Court, Madras - Copy of jdgt. - Communicated.

Ref: From the Collector of S. Kanara, C.No. CS 4888/54 dt 11.8.54.

2) G.O.R. 2590, Home, dt 30.8.54.

A copy of the jdgt. of the High Court, Madras, in C.A. Nos. 477 and 578 of 1954 on its file is communicated to the Collector of S. Kanara for information.

The Collector of S. Kanara
(with encl: copy of pp. 16172 cf.)

R.O. 20

H Home (Cts) Dept.

C.No. 102108/54. Crl. Jos. - Appeal against acquittal - S. Kanara dist. - S.C. 16 of 54 / S.J., S. Kanara - u/s 302 I.P.C.

Ref: From the P.P., Madras, Opn. 115 of 54

[illegible]

The letter from the P.P., Madras, on p. 1 c.f. may be perused. A copy of the judgt. in S.C. No. 16 of 54 on the file of the S.J., S. Kanara, was forwarded to the P.P., Madras by the H. Ct. The accused in this case was acquitted by the S.J., S. Kanara, on application of the exception (1) to sec. 300 I.P.C. The P.P. opines that the accused ought to have been convicted u/s. 302 I.P.C., and suggests filing an appeal against the acquittal of the accused in this case. Before taking a final decision in the matter, a copy of the judgt of the lower court in this case may be called for. A draft memo to the A.D.M.(I) S. Kanara, submitted accordingly, is for approval.

30.7.54.

30/7/54

[Issued as Memo 102108 Cts I/54-1 dt 30.7.54]
[From the A.D.M.(I) of S. Kanara, Ref. C.No. Cr. 4588/54 dt 2.8.54]

The letter from the A.D.M.(I), S. Kanara on p. 5 c.f. may be perused.

It was ascertained from the P.P's office over the phone that the case no. given is correct. It is not disputed that the accused was convicted u/s. 304 I.P.C and sentenced thereto to R.I. for [illegible] as reported by the Collector of S. Kanara. But the accused has been let off [illegible] without [illegible] the judge, section 302 I.P.C. against which the proposals have been submitted for

for enhancement of sentence for altering the conviction
~~an appeal~~. In this connection it may be noted that the accused have preferred an appeal against the conviction order of the lower court. the Collector of S. Kanara may be requested to send the copies of the judgts of the lower Court. ~~He may be specifically informed that no remarks in the matter are called for from him. The draft memo submitted accordingly is for approval.~~

4.8.54.

[Issued as Ex. Memo No. 102108/Ch I/54-2 dt 6.8.54]
[To the A.D.M.(I), S. Kanara, C.P.C.S. 4888/54 dt 11.8.54]

The accused in this case was charged with the offence of intentionally causing the death of one Ramanna Rai, an offence punishable u/s. 302 I.P.C. The S.J., S. Kanara, sentenced them under the first part of sec. 304 I.P.C. to undergo R.I. for seven years. The H.C. sent a copy of this judgt. to the P.P., Madras, for perusal. He is of the opinion that the accused should have been punished u/s. 302 I.P.C. whatever the sentence might be, the cases he opines that exception (1) to sec. 300 I.P.C. viz. that the accused acted under grave and sudden provocation should not have been applied as done by the lower courts in this case. Therefore he suggests filing an appeal against the acquittal of the accused for the offence u/s. 302 I.P.C. The Govt. may agree with him and sanction

102108/54

in respect of the acquittal of the charge of murder

28/8 | applns. for filing an appeal as suggested by the P.P. The draft order submitted accordingly is for approval.

26.8.54.
27

27.8.54.

28/8

S

P.H.C. [Issued as Q.O:R.2590, D 30.8.54].

C. No. 164172/54.

Home (Cts I) Dept.

Appeal against acquittal - C.A. No's. 477 and 578 of 1954, High Court, Madras - copy of the judgt.

Ref: G.O.R. 2590, Home, dt 30/8/54

A on p. 2 inf. of (W)

One Koti alias Mallu Pujary was charged with the offence of intentionally causing the death of one Ramanna Rai, an offence punishable under section 302 I.P.C. The S.J., South Kanara, convicted him under ~~the first part of~~ sec. 304 I.P.C. and sentenced him to undergo R.I. for seven years (on the ground that he acted under grave and sudden provocation). The accused filed an appeal against this conviction and sentence

B on p. 10 inf.

which was numbered as C.A. 477 of 54 on its file to the High Court. The State ~~represented by the P.P., Madras, to the said~~ also filed an

p. 11 inf. of (W)

appeal to the High Court against the acquittal of the accused in respect of the charge of murder under section 302 I.P.C., ~~by the S.J., S. Kanara, in S.C. No. 16 of 1954 on his file.~~ This was heard as C.A. No. 578 of 1954 on the file of the High Court. The judgt. of the High Court in both these cases, viz., C.A. No's. 477 and 578 of 54 on its file may be seen on pp. 16 17 c/f.

K on p. 1 c/f

The High court observed that there was absolutely nothing in the evidence on the basis of which it could reasonably be said that the accused acted under grave and sudden provocation and ~~therefore the High court held~~ that the S.J. of South Kanara was wrong in having acquitted the accused in respect of the charge under sec 302 I.P.C. Consequently the appeal preferred by the State, i.e. C.A. 578 of 1954, was ~~allowed~~ allowed, ~~and~~ the accused was convicted under sec 302 I.P.C and was sentenced to transportation for life. The appeal preferred by the accused, i.e; C.A 477 of 54 was dismissed.

A copy of the judgt of the High court, Madras, in the c.f. may be sent, ~~with the letter~~ to the Collector of S. Kanara for information. ~~the draft memo submitted is for approval.~~

W.r.t. the observations of the High court at B on p: 17 c.f. on how the examination of the accused under sec: 342 cr. P.C. should proceed, no action seems called for as a copy of the judgt.

164172

Mr. Iyengar

The High Court in the case has already been sent to the concerned S.J. The draft memo submitted w.r.t. M on prepage is for approval.

27.1.55

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[Issued as M. 164172 Cts I/54-1 dt 28-1-55]

1) The pp: may now be closed and added to G.O.R. 2590, Home, with the memo as pr. dt. dt 30.8.54

4.2.55

4.2.55

5.2.55